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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,825	04/25/2001	Tetsuya Hirakawa	Q64165	6097

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
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Washington, DC 20037-3202

EXAMINER

RHODE JR, ROBERT E

ART UNIT PAPER NUMBER

3625

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/840,825	Applicant(s) HIRAKAWA, TETSUYA	
	Examiner Rob Rhode	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/21/05 has been entered.

Response to Amendment

Applicant amendment of 9-21-05 amended claims 1, 5 and 7 as well as traversed rejections of Claims 1 - 15.

Currently, claims 1 - 15 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 5 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 5 for example, the word "user" is a relative word, which renders the claims indefinite. The word "user" is not defined by the

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claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. In this case, is the "particular user" a supplier or another "user" such as buyer or another dealer user? The Applicant's specification states at page 4 that a user is both a dealer and user. As a result, determining the metes and bounds of the claims are almost impossible.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 – 3, 5 – 8, 10 – 12 and 14 - 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kutsuzawa (US 2001/0056412 A1) in view of Yamamoto (US 2002/0019724 A1).

Regarding Claims 1, 5 and 7 (currently amended), Kutsuzawa teaches a method and system for selling a product by using the Internet, comprising the steps of: receiving an application for purchasing a product from a particular user terminal via the Internet (see at least Abstract and Figure 2); charging a commission fee to the user operating the user terminal (Figure 3); randomly selecting a price at which the product may be purchased from a plurality of prices within a predetermined price range (see at least Para 0091 and 0122).

While Kutsuzawa does disclose a validity term, the reference does not specifically disclose a method and system for presenting the selected price on the user terminal together with a predetermined term of validity, the predetermined term of validity being the time period during which the user may purchase the product at the randomly selected price.

On the other hand and in the same analogous area of purchasing products, Yamamoto teaches a method and system for presenting the selected price on the user terminal together with a predetermined term of validity, the predetermined term of validity being the time period during which the user may purchase the product at the randomly selected price (see at least Figure 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and system of Kutsuzawa with the method and system of Yamamoto to have enabled a method and system as recited in claim 5 for example. Kutsuzawa discloses a method and system for selling a product by using the Internet, comprising the steps of: receiving an application for purchasing a product from a particular user terminal via the Internet; charging a commission fee to the user operating the user terminal; randomly selecting a price at which the product may be purchased from a plurality of prices within a predetermined price range (see at least Para 0091 and 0122 and Figures 2 and 3). In turn, Yamamoto teaches a method and system for presenting the selected price on the user terminal together with a predetermined term of

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validity, the predetermined term of validity being the time period during which the user may purchase the product at the randomly selected price (see at least Figure 3).

Thereby, one of ordinary skill in the art would have been motivated to extend the method and system of Kutsuzawa with a method and system for presenting the selected price on the user terminal together with a predetermined term of validity, the predetermined term of validity being the time period during which the user may purchase the product at the randomly selected price. Thereby, the user can determine how long the product will be on sale, which will ensure as with most online auction and/or product purchasing that time is limited as with any sale - both online and offline sales.

Regarding claim 2 and related claims 6 and 8, Kutsuzawa teaches a system for selling a product, wherein the supplier terminal stores the standard price of the product, and the commission fee is determined by multiplying a predetermined rate to the standard rate (Figure 3).

Regarding claim 3 (original), Kutsuzawa teaches a sales system for selling a product by using the Internet further comprising an audit authority terminal for supervising the settings of the prices by the supplier terminal (Figure 1).

Regarding claim 10, Kutsuzawa teaches a sales system, wherein the commission is non-refundable (Para 0093).

Regarding claim 11 and related claims 14 and 15, Yamamoto teaches a sales system, wherein the predetermined term of validity contains an expiration date, such that a user cannot purchase the product after the expiration date (Figure 3).

Claims 4, 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kutsuzawa and Yamamoto as applied to claims 1 and 5 above, and further in view of Harrington (US 6,161,099).

The combination of Kutsuzawa and Yamamoto substantially disclose and teach the Applicant's invention.

However, the combination does not specifically disclose and teach a method and system for selling a product by using the Internet, further comprising a reselling function for reselling the privilege to purchase the product at the price presented by the supplier terminal to a third person as well as wherein the price history of the product is presented on the user terminal together with the selected price of the product.

On the other hand and regarding claim 4 (original), Harrington teaches a sales system for selling a product by using the Internet, further comprising a reselling function for

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reselling the privilege to purchase the product at the price presented by the supplier terminal to a third person (see at least Col 2, lines 49 – 60 and Col 6, lines 10 – 26).

Regarding claim 9 and related claim 13, Harrington teaches a sales system, wherein the price history of the product is presented on the user terminal together with the selected price of the product (see at least Col 7, lines 34 – 53).

IT would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Kutsuzawa and Yamamoto with a method and system for selling a product by using the Internet, further comprising a reselling function for reselling the privilege to purchase the product at the price presented by the supplier terminal to a third person as well as wherein the price history of the product is presented on the user terminal together with the selected price of the product. The combination of Kutsuzawa and Yamamoto teach substantially the Applicant's invention. In turn, Harrington discloses a method and system for selling a product by using the Internet, further comprising a reselling function for reselling the privilege to purchase the product at the price presented by the supplier terminal to a third person as well as wherein the price history of the product is presented on the user terminal together with the selected price of the product. Thereby, one of ordinary skill in the art would have been motivated to extend the combination of Kutsuzawa and Yamamoto with a method and system for selling a product by using the Internet, further comprising a reselling function for reselling the privilege to purchase the product at the price presented by the supplier

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terminal to a third person as well as wherein the price history of the product is presented on the user terminal together with the selected price of the product.

Response to Arguments

Applicant's arguments with respect to claims 1 - 15 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300

[Official communications; including
After Final communications labeled
"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). RER

R. G. Shady